

HOUSE FINANCE COMMITTEE  
March 1, 2005  
1:39 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:39:01 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair  
Representative Kevin Meyer, Co-Chair  
Representative Bill Stoltze, Vice-Chair  
Representative Eric Croft  
Representative Richard Foster  
Representative Mike Hawker  
Representative Jim Holm  
Representative Reggie Joule  
Representative Carl Moses  
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Mike Kelly

ALSO PRESENT

Representative Vic Kohring; Sam Kito, III, Alaska Professional Design Council; Pat Davidson, Legislative Auditor, Legislative Audit Division; Rick Urion, Director Occupational Licensing, Department of Community and Economic Development; Cheryl Frasca, Director, Division of Management & Budget, Office of the Governor; Devon Mitchell, Executive Director, Alaska Municipal Bond Bank Authority, Department of Revenue; Michael Burns, Executive Director, Alaska Permanent Fund Corporation; Tom Boutin, Deputy Commissioner, Department of Revenue

PRESENT VIA TELECONFERENCE

Murphy O'Brian, Planning director, MatSu Borough; Jane Dale, Palmer; Gary Davis, Road Service Director, Kenai Peninsula Borough; Mark Begich, Mayor, City of Anchorage

SUMMARY

HB 35 "An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

CS HB 35 (FIN) was REPORTED out of Committee with a "no recommendation" and with a previously published fiscal impact note: # 1 CED.

OVERVIEW - AMERADA HESS/ALASKA CAPITAL CORPORATION

[1:39:24 PM](#)

#hb35

HOUSE BILL NO. 35

"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

[House Bill 35 was previously heard on February 28, 2005.]

Representative Vic Kohring asked the committee to consider Amendment 1 after hearing testimony from people in the industry. He explained that the amendment allows the eleventh member of the State Board of Registration for Architects, Engineers, and Land Surveyors to vote.

Representative Hawker MOVED to ADOPT Amendment 1, labeled 24-LS0273\A.1, Bannister, 2/28/05, as follows:

Page 1, line 2, following "Surveyors;":  
Insert "relating to the membership of the State Board of Registration for Architects, Engineers, and Land Surveyors;"

Page 1, following line 6:  
Insert new bill sections to read:  
\* Sec. 2. AS 08.48.011(b) is amended to read:  
(b) The board consists of 11 [10] members appointed by the governor having the qualifications as set out in AS 08.48.031. The board consists of  
(1) two civil engineers;  
(2) [,] two land surveyors;  
(3) [,] one mining engineer;  
(4) [,] one electrical or mechanical engineer;  
(5) [,] one engineer from another branch of the profession of engineering;  
(6) [,] two architects;  
(7) one landscape architect; [,] and  
(8) one public member.

\* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to read:  
APPOINTMENT OF NEW BOARD MEMBER. (a) On or before September 1, 2005, the governor shall appoint a new member to the State Board of Registration for Architects, Engineers, and Land Surveyors to satisfy the requirement of AS 08.48.011(b), as amended by sec. 2 of this Act. The member shall be an individual who is registered under AS 08.48 to engage in the practice of landscape architecture and who is otherwise qualified under AS 08.48.031 to be a member of the

State Board of Registration for Architects, Engineers, and Land Surveyors.

(b) The term of the member appointed under (a) of this section is four years from the date of appointment."

Renumber the following bill section accordingly.

Representative Holm OBJECTED.

SAM KITO, III, CHAIR, LEGISLATIVE LIAISON, ALASKA PROFESSIONAL DESIGN COUNCIL, spoke in favor of Amendment 1. He indicated that he was speaking on behalf of the State Board of Registration for Architects, Engineers, and Land Surveyors. He stated support for converting the temporary landscape architect position to that of a permanent position, a recommendation of a legislative audit. He explained that allowing the eleventh member to vote would create an odd number and avoid ties.

[1:43:31 PM](#)

Representative Holm pointed out the difficulty of certifying landscape architects in Alaska. He explained the various growing zones in the state and lack of resources for training. He said he is objecting to the idea of licensing someone who would not be knowledgeable because they don't have an opportunity to get adequate training. He recalled when there were no landscape architects in Alaska.

Mr. Kito acknowledged that Representative Holm has raised valid points. He explained the licensing procedure for a landscape architecture. Representative Holm maintained that there is no licensing procedure and he termed the licensing procedure inappropriate. He related that the Association of American Nurserymen has no standards regarding Alaska, and Alaska is not at a point to have experts in this area. He questioned the validity of requiring a landscape architect to act as an expert and superimpose landscape information over projects throughout the state.

Mr. Kito, speaking as a civil engineer, related that there are manuals, books, and guidelines with applicable information. Selection of specific materials is left up to "knowledge at the local area". He opined that design professionals would make a point of knowing conditions and specifics in various areas.

Co-Chair Meyer inquired if the audit report recommended the addition of a landscape architect position.

PAT DAVIDSON, LEGISLATIVE AUDITOR, AUDIT DIVISION, responded that is correct. She explained that a variety of occupations are licensed under the board and therefore a variety of occupations are needed on the board. As a

growing and developing occupation, a landscape architect should be on board to deal with related and emerging issues.

[1:52:41 PM](#)

Representative Hawker inquired why Alaska recognizes the occupation of landscape architect. Mr. Kito said it is his understanding that there are some benefits to having such a person on board when an Alaskan firm bids on federal projects such as playgrounds. Most landscape architects spend a lot of time working on school playground projects and other projects that receive the benefit of having their expertise.

Representative Hawker asked how many landscape architects there are in Alaska. Mr. Kito replied there are 33 licensed landscape architects. Representative Hawker indicated that that is a relatively small number. He wondered if it is premature to give that occupation a seat on the board. Mr. Kito noted that there are 1,000 licensed civil engineers in the state and 33 licensed mining engineers. All of the related architecture occupations have a member on the board. He explained that if there were not a voting landscape architect on the board, there would be no one to have a voice regarding that occupation's regulations and statutes.

Representative Hawker asked if the concerns raised by Representative Holm would be an issue or an unintended consequence to the nurserymen in the state if the amendment passes. Mr. Kito replied that he does not believe so. He concluded that it would be an opportunity for the landscape architect position to work with the other disciplines to formulate guidelines for the practice and responsibilities of landscape architecture.

[1:57:26 PM](#)

Vice-Chair Stoltze asked if the sunset date was guided by past legislation. Ms. Davidson replied the Legislative Audit Division looked at current operations to make that determination. Vice-Chair Stoltze voiced concern about adding another regulatory entity and the possibility of detrimental future regulations such as a closed shop.

Representative Holm reiterated past concerns with landscape architects and cautioned the board that he would be closely watching its actions. Representative Holm WITHDREW his OBJECTION to adopt Amendment 1.

Representative Foster MOVED to report CS HB (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 35 (FIN) was REPORTED out of Committee with a "no recommendation" and with a previously published fiscal impact note: # 1 CED.

[2:03:06 PM](#)

#

At ease.

[2:04:37 PM](#)

#### OVERVIEW: AMERADA HESS SETTLEMENT TO FUND CAPITAL PROJECTS

CHERYL FRASCA, DIRECTOR, DIVISION OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, introduced members of the panel. She explained the handout entitled "Use of the Amerada Hess Settlement to Fund Capital Projects" (copy on file.) The first three pages are background history describing the Amerada Hess settlement, pages 5 and 6 are a summary of the proposed capital corporation, pages 7 and 8 are schematic diagrams, pages 9 - 12 depict how the account works, pages 13 - 15 is a legal opinion from Wilson Condon regarding the intent when the issue was before the court, pages 16 - 18 are frequently asked question, and pages 19 - 27 relate to proposed capital projects to be funded by the revenue bond proceeds.

[2:08:19 PM](#)

MICHAEL BURNS, EXECUTIVE DIRECTOR, ALASKA PERMANENT FUND CORPORATION, explained the history of the Amerada Hess Royalty Oil Dispute and Settlement. In 1977 the State of Alaska sued North Slope oil companies over royalty disputes. Twenty-five percent of all oil royalties are directed to the permanent fund, so the issue became whether or not an Alaskan jury and judge could be impartial because they were potential recipients of the royalty payments through the Permanent Fund Dividend. The case ended up in the Ninth Circuit Court of Appeals, which encouraged settlement.

In 1989 and 1991 the Legislature passed legislation that stated that any settlement would be deposited in the permanent fund, but the earnings could not be used in the dividend formula. That satisfied the court and it did not go to trial. Between 1992 and 2002, about \$194 million was deposited into the fund. Earnings on that money, over the years, have amounted to almost \$153 million. Inflation proofing of the original principal is about \$77.5 million. About \$424,399,000 is in the fund today. Mr. Burns referred to the delicate term "financial sequestration" in Wilson Condon's memo and noted that he preferred the concept "self-licking ice cream cone", to describe a fund within a fund that is economically and financially being used for nothing.

Mr. Burns described the fund's accounting procedure. Appreciation or depreciation on assets is added to the very basic income such as stock dividends, bond interest, property rent, revenues from securities lending, and commission recapture. Then, operating expenses of the fund and legislative appropriations are subtracted. This leads to a number called an accounting net income or total return. From that number, unrealized depreciation on assets is deducted, which totals realized net income. From that number any income attributable to the Amerada Hess fund is subtracted. This equals the statutory net income, which is used in the calculation of the dividend.

[2:12:15 PM](#)

DEVON MITCHELL, EXECUTIVE DIRECTOR, ALASKA MUNICIPAL BOND BANK AUTHORITY, DEPARTMENT OF REVENUE, explained how the bonds were issued. Two fundamental ideas were settled upon: a new account created in the earnings reserve called the Alaska Capital Income Account, which will be funded by earnings from the segregated portion of the fund, and a new public corporation, which will have the authority to issue up to \$350 million in corporate bonds supported by operating leases that might be paid from the Alaska Capital Income Account. The key reason for needing a separate corporation is to have a structure to segregate funds and allow for leveraging without any impact on the state's general credit rating.

The new corporation would exist within the Department of Revenue and be funded by revenue staff. There would be a slight increment in operating costs for the corporation's annual audit functions and other administrative functions. The bond structure is critical to the viability of the corporation because a very flexible structure is needed. There is a 40-year nominal interest structure, like a balloon payment at the term of 40 years, with the flexibility to retire principle in the interim years as additional revenue becomes available. There is also a tax-exempt bond structure and a variety of other potential enhancements to ensure protection against volatility. The final credit feature is a fully funded debt service reserve fund secured by a moral obligation pledge at the State of Alaska.

Mr. Mitchell referred to page 7 of the packet. The flow chart demonstrates how Amerada Hess funds would flow into the earnings reserve sub-account and be available for annual appropriations for projects, changing nothing related to the permanent fund, the earnings reserve, or the dividend.

[2:17:08 PM](#)

Mr. Mitchell indicated that page 8 is the schematic for the contemplated corporation that would be charged with issuing \$350 million in bonds. It depicts annual appropriations flowing into the corporation through the revenue fund and then splitting off into the debt service reserve, the bond redemption fund, and the operations fund. The bond redemption fund or advanced-funded bond redemption account is an added security feature where debt service is funded a year in advance. Prior to any principle redemption through flexible amortization on the bonds, an additional year's worth of security would be set aside to further insulate the state from market volatility. The operations account would provide for audit function duties of the corporation, and fund the construction fund if there were revenues available for transfer.

The corporate bond issue with flexible amortization is the primary source of funding for the construction fund. That money would flow from investors to the construction fund and be available for various projects. The money appropriated into the revenue fund would be based on Evergreen Operating Leases.

The tables on pages 9-12 illustrate potential scenarios based on certain assumptions. Page 9 depicts the Alaska Capital Income Account and shows the principle balance of the Amerada Hess funding and earnings assumptions of 7.61 percent, which the permanent fund corporation's consultants have provided as the most likely scenario for the short term.

[2:20:02 PM](#)

The result is an annual transfer of approximately \$33 million that would fund (column 5 on page 10) the lease appropriation received. This has a borrowing rate of 6 percent, which is conservative based on the ability to fund on a tax-exempt basis. It has a reinvestment rate on the fund balance within the corporation proper of 2 percent, which is lower because it anticipates the short-term nature of that money and the liquidity needs of the corporation. Outstanding bonds show the nature of flexible amortization. Flexible principle payments don't start until 2007. Mr. Mitchell continued to explain the intricacies of the spreadsheet.

Mr. Mitchell explained that page 11 shows the reserve fund reinvested at a rate of 4 percent. Page 12 depicts obligations of the construction fund, invested at a rate of 3 percent.

[2:22:47 PM](#)

TOM BOUTIN, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, added that in addition to talking to the rating analyst to insure that this structure would not be included in the state general fund debt, the department worked closely with bond counsel and special tax counsel about tax-exempt status. The department also "went out and talked to the market place a little bit" to make sure it was an acceptable structure in the public finance market.

Ms. Frasca explained how the proceeds from the bond would be used. She related that \$155 million of the proposed \$340 million is for several road projects in two categories, "roads to resources" and "congestion relief or bottleneck busters". She indicated that there is also \$74 million related to deferred maintenance, \$71 million to match federal highway dollars, and \$24 million for several University of Alaska projects, including the UAA science complex.

Ms. Frasca pointed out that the idea to use state funds for transportation projects instead of federal funds, came from the general obligation bond packet which passed in 2000 and provided that, for the first time, state funds could be used for road projects, which relieved the state from some of the federal requirements.

[2:24:57 PM](#)

JOHN MCKINNON, DEPUTY DIRECTOR, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, explained how the proceeds from the bonds would be used on transportation projects. He explained that road projects were chosen if they would fit the criteria of resource roads, bottleneck busters, tourism development, or bridges necessary for gas line development. The projects that were decided upon were badly needed and would benefit, both in cost and delivery, by using state funds. He pointed out that without constraint by federal rules, delivery can be sped up and costs can be reduced.

[2:27:15 PM](#)

MURPHY O'BRIAN, PLANNING DIRECTOR, MATSU BOROUGH, expressed excitement over projects that would provide a needed east/west connection in his area. He agreed that this infrastructure would enhance transportation. He encouraged the pursuit of Amerada Hess funds for capital projects.

JANE DALE, PALMER, spoke on Mayor John Comb's behalf in support of the funding to lessen congestion between Palmer and Wasilla. She noted that the area has doubled in size since the 1990 Census. A second route would facilitate everyone using the growing retail available in Wasilla and accessing the growing technical and professional end in Palmer.

GARY DAVIS, ROAD SERVICE DIRECTOR, KENAI PENINSULA BOROUGH, voiced appreciation for the bond approach. He shared a story about the importance and value of bond initiatives. He noted that the Kenai Borough is primarily interested in Channel Kalifornski Beach road repair, an alternate access highway to the southern peninsula. Setbacks and delays have been due to federal highway funding problems.

[2:31:49 PM](#)

MARK BEGICH, MAYOR, ANCHORAGE, commented on the need to relieve traffic congestion in Anchorage because it is becoming a safety concern. He explained the Tudor/Lake Otis relief package and the Glenn Highway Corridor project and why they are needed. He noted that the Lake Otis and Tudor intersection was not included in the package and is a concern. Another \$7 million is needed to finish that intersection. He spoke about the need for improvements in the Glenn Highway/McGraw intersection, which has a growing number of commuters going into the MatSu valley. Relief in that area would allow other projects to go forward. He expressed support for state funding and acknowledged the debate over the funding mechanism. He emphasized that transportation issues need to have a long-term stable funding mechanism and observed that 48 percent of Anchorage's roads are state-owned.

In response to a question by Representative Croft, Ms. Frasca clarified that \$26 million for the Anchorage Mid-Town Improvements includes: \$7 million for Tudor and Bragaw and \$19 million for Dowling East Extension

Mayor Begich stressed the need for the Lake Otis/Tudor intersection funding. Traffic flow in the area will continue to grow without the intersection project. He pointed out that Anchorage would provide \$7 million in local funds for the project. Southbound traffic continues to be a problem, especially for truckers.

Representative Croft questioned why it is not a better solution to avoid the intersection. Mayor Begich observed that it would suffice for northbound traffic, but southbound traffic to downtown and eastbound traffic would remain a problem. Most of the commercial development is closer to Lake Otis and drivers are cutting through neighborhoods.

Representative Weyhrauch referred to the memorandum from Commissioner Condon (copy on file.) He observed that the legislature is free to repeal the statute that is sequestering the funds. Commissioner Condon expressed the concern that oil and gas companies will maintain that a fair trial cannot be obtained. He asked if there was anything

that would preclude the legislature from repealing and reenacting the legislation.

Ms. Frasca acknowledged the right of the legislature to change the settlement agreement in the manner referred to by Representative Weyhrauch, but expressed concern that the state would lose industry trust.

Representative Weyhrauch referred to page 16, number 5 regarding a downgrade of state credit rating. He expressed frustration with the idea that the state does not have a fiscal plan. He emphasized that even if CBR funds are spent, the earnings reserve account is tapped, ANWAR is developed, and the gas pipeline goes through, there will still be a fiscal gap between now and when those events come online.

Mr. Boutin spoke to the credit issue. The structure would successfully separate the funds from the general fund as to not jeopardize the credit rating since the earnings are distinguished well enough.

Representative Weyhrauch stressed that he is really addressing a philosophical issue regarding how to educate the public and get buy-in by the legislature about a fiscal gap. He termed it a difficult disconnect.

Mr. Boutin emphasized that the funding structure would bring immediate benefit to Alaska. Ms. Frasca said she appreciates the disconnect and noted the Administration's work in regards to a fiscal plan. The question is should the state go on hold for state needs while a fiscal plan is being developed. She agreed that it sends a mixed signal to the public and the legislature, but the Administration decided "it needed to take action instead of treading water for another year or two."

Representative Weyhrauch noted that the issue has been around for a while, but that the information is only coming to light in the current year. He questioned how many more funds are out there waiting to be tapped. Ms. Frasca stressed that the Administration spent a great amount of time on how to structure the proposal so as not to impact the state's debt rating.

[2:54:54 PM](#)

In response to a question by Vice-Chair Stoltze, Ms. Frasca replied there is nothing in the bill for the proposed Capitol project. She added that funding for a new Capitol would be an appropriate use of bond proceeds.

Representative Croft asked about the nature of the debt and why the \$343 million does not require a public vote. Mr.

Boutin clarified that the earnings that are contemplated to be the source of the debt service are subject to appropriation. If the revenues of the fund were going to be pledged, then it would require going to the voters.

Mr. Mitchell added that there would be an annual appropriation on an operating lease to provide for a transfer from the Alaska Capital Fund Account to the Alaska Capital Corporation. Representative Croft asked if it is debt of the corporation and not state debt. Mr. Mitchell concurred. Mr. Boutin further clarified that if Amerada Hess had been appropriated through the general fund, then credit rating analysts would consider it state debt.

[3:00:36 PM](#)

Ms. Frasca added that the governor's concern is to protect the state's bond rating. She indicated that the tobacco tax used the corporate structure and did not need voter approval. Representative Croft inquired if this had gone to the general fund, and the state tried to bond its way out of the fiscal gap, if that would create the "wall street problem". Mr. Boutin said yes. Representative Croft wondered if the \$343 million in bonding would replace Alaska Housing Finance Corporation (AHFC) and Alaska Student Loan Corporation money in the capital budget, and, in that sense, replace general fund holes in the budget.

Ms. Frasca explained that are \$121 million in proceeds from AHFC, student loans, and general funds in the capital proposal. She explained that the bond earnings would add to what is available for capital funds.

Representative Croft questioned the disqualification of Alaska courts and the use of the Amerada Hess money for capital projects. Mr. Boutin replied that is a question for legislative legal.

[3:06:12 PM](#)

Representative Croft referred to a "moral obligation" so risk would not affect the bond rating. Mr. Boutin explained that moral obligation is a term of art, a level of commitment used for a variety of different kinds of debt. He termed it a backstop because the earnings rate can't be guaranteed. He noted that as of June 30, 2004, there was over a billion dollars worth of State of Alaska moral-obligation debt outstanding.

Representative Hawker paraphrased Representative Croft's point that "the legislature may appropriate" would put this in the category of moral obligation debt, not general obligation debt, which would require a vote of the people. Mr. Boutin agreed and added, "and not general fund debt."

Representative Hawker clarified that is also not state guaranteed debt, like AHFC debt. Mr. Boutin agreed.

Representative Hawker summarized that there is a new source of general fund revenue that would not impact the state's credit rating. Mr. Boutin agreed that is the basis and it would not affect the state's credit rating. He explained that he has not heard the Amerada Hess funds called new general fund revenues, and the fact that they are not general fund revenues is the basis upon which this borrowing is not general fund debt.

Mr. Wallace further explained that the funds would never go to the general fund, but to a sub-account in the earnings reserve.

Representative Hawker argued that Amerada Hess is part of the permanent fund. Mr. Boutin agreed that it is. Representative Hawker stated that Article IX, Section 15 of the Alaska Constitution says that all income of the permanent fund shall be deposited in the general fund. He asked if that makes it general fund earnings.

Mr. Burns pointed out that statute says it must be reinvested in the principal. Representative Hawker asked if Amerada Hess earnings automatically go into the general fund. Mr. Burns said it is done automatically by previous statute.

[3:15:02 PM](#)

Ms. Frasca referred to the fiscal summary worksheet and asked if Representative Hawker was suggesting that the transaction be moved to the general fund column. Representative Hawker replied that the fiscal summary is only a worksheet and does not reflect the real transaction. Representative Hawker pursued the idea that if other new general fund earnings were identified, could they also support new bonded debt with inconsequential impacts on the state's credit rating. Mr. Boutin, speaking hypothetically, answered yes.

Representative Hawker pointed out that in the past two legislative sessions, new general fund revenues in excess of \$30 million were imposed. He inquired why this source of money had to be used, rather than continuing to use past methods to raise money. No one could answer that question.

Representative Hawker continued to question. "Do you truly believe that taking these earnings is the highest and best use of this asset that sits within the permanent fund?" Ms. Frasca responded that the Administration thinks that this proposal advances some opportunity in the infrastructure in a way that has not been possible for a long time. She noted

the Administration is open to other ideas the legislature may have.

Representative Hawker asked if the money completes all projects or will require more funds in order to complete them. He mentioned the science complex in Anchorage as an example of a project that will require more funding. He asked where the funds would come from to sustain and complete these projects.

[3:19:33 PM](#)

Ms. Frasca said an analysis would have to be done. She noted that it is part of the tradeoff when determining a capital budget. She opined that there are other ways to finance some of these projects. She offered to provide the information Representative Hawker requested.

Co-Chair Meyer agreed it would be good to see which projects would require future funding. Ms. Frasca replied that the Administration wants to invest in the future and is willing to take the first step to initiate funding.

Representative Croft referred to page 12 in the handout and asked if the \$343 million is bonded and paid out over the next six years. Mr. Boutin noted that is one example of how it could work. He pointed out the volatility of the earning stream.

Representative Croft referred to page 18 and asked how the proposal squares with the governor's proposal to not touch the permanent fund without a public vote. Ms. Frasca agreed that it accurately represents OMB's official interpretation of the governor's commitment.

#### ADJOURNMENT

The meeting was adjourned at 3:25 PM